NITCHELL III

Weighs Motion for Wistria Over 'Apparent Excesses' in Prosecutor's Speech

By RALPH BLUMENTHAL

Federal Judge Lee P. Gagliardi abruptly suspended yesterday the conspiracy-perjusy trial of John N. Mitchell and Maurice H. Stans for what he called "apparent excesses" by the chief Government prosecutor in his opening statement.

Judge Gagliardi said that he would rule Monday on demands by defense attorneys for a mistrial. He ordered the prosecutor, Assistant United States Attorney James W. Rayhill, to submit a '"documented re-sponse" with his "excuses" While neither side would

comment on the surprising development, some observers in the court believed it unlikely that the judge would decide to discharge the newly picked jury, which had been carefully isolated from news of yesterday's Watergate indictments naming Mr. Mitchell along with six others.

Conspiracy Charged

The historic trial was interrupted just after the Government had told the jury that it would prove that the defendants had conspired to quash a Federal investigation of Robert L. Vesco, the fugitive financier, in exchange for his secret \$200,000 cash contribution to President Nixon's reelection campaign, that the defendants covered up the scheme and lied about it when questioned under oath.

At the close of his hour and 50 minutes presentation in the fifth-floor courtroom in the

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United States Court House in

gated this case, citizens like yourselves."

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After Judge Gagliardi sustained the objection, and the jurors were escorted out for the lunch recess, Mr. Bonner called for a mistrial on the of Vesco-controlled concerns. ground that Mr. Rayhill had improperly suggested to the jury that the grand jury's indictment suggested that the defendants were guilty.

Vesco' — got Mr. Mitchell to intervene on behalf of Mr. Stans had mare just one list of cash carries paign contributors and then destroyed it.

When Mr. Sears expressed anxiety that Mr. Stans had markety in the contribution on the commission's tion, Mr. Rayhill said, Mr. investigation to Mr. Sears and Mitchell replied, "Maury knows arranged for meetings between his business."

Judge Gagliardi had taken considerable pains ever since the trial began Feb. 19 to explain to prospective jurors that an indictment was only an accusation and did not constitute evidence or proof of anything.

After the lunch recess and before the jury returned, the judge read a statement that

"I am gravely concerned over the apparent excesses of the prosecutor in his references to the grand jury and its functions and bringing to it his personal conclusions as though he were a witness in the matter."

Trial Is Adjourned

The judge announced that instead of moving on, as planned, to the opening statement of the defense, he was adjourning the trial until 10 A.M. Monday.

Fleming Peter Mitchell's chief attorney, raised an arm in jubilation and grinned. Mr. Rayhill looked striken as other Government attorneys huddled around him.

Judge Gagliardi called in the jurors and told them that it was too late in the day to begin the defense statement, so the trial would resume Monday. The jurors are being sequestered in an unnamed hotel away from their families, with their reading matter and other ma-

Continued From Page 1, Col. 4 terial screened by United States Mr. Sears and the commission

Foley Square, Mr. Rayhill told the jury of eight men and four women:

"As you sit through this case "Senate who was indicted as a been made for Mr. Vesso."

'Looting' Investigated

Vesco" - got Mr. Mitchell to

marshals. chairman William Casey. He In outlining its case, the Gov-contended that although Marshals.

"As you sit through this case listening to the testimony and observing how the witnesses behave, consider how essential it is that a jury be given truthful testimony under oath.

"It is only by getting witnesses who tell the truth that our system of justice can work, and as you listen to the witnesses testifying before you, put yourselves in the place of the grand jurors who investigated this case, citizens like seems and interested to the way of the prosecution under a grant of immunity.

Mr. Rayhill, in telling the jury what the Government intended to prove, also cited testimony that Mr. Vesco, asked why he had made a contribution of \$200,000 to the President's re-election campaign, replied, "It's cheaper than paying the lawyers."

The contribution was identify the concessions had been made for Mr. Vesco.

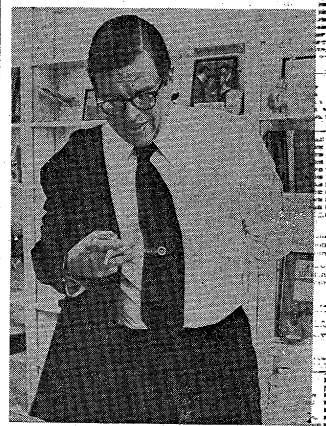
In the case of Mr. Stans, Mr. Rayhill said that although Mr. Stans had received the \$200,000 cash from Mr. Sears three days after a new campaign fund restimony that Mr. Vesco, asked the contribution of \$200,000 to the President's re-election campaign, replied, "It's cheaper than paying the lawyers."

The contribution was identify the case of Mr. Stans, Mr. Rayhill, in telling the jury what the Government intended to prove, also cited testimony that Mr. Vesco, asked that although Mr. Stans had received the \$200,000 cash from Mr. Sears three days after a new campaign from April 7, 1972, he told the more porting law went into effect on April 7, 1972, he told the more porting law went into effect on April 7, 1972, he told the more porting law went into effect on April 7, 1972, he told the more porting law went into effect on April 7, 1972, he told the more porting law went into effect on April 7, 1972, he told the more porting law went into effect on April 7, 1972, he told the more porting law went into effect on April 7, 1972, he told the more porting law went into effect on April 7, 1972, he told the more porting law went into effect on April 7, 1972, he told the more porting law went into effect on April 7,

The contribution was identifi yourselves."

"Looting' Investigated fied only by the initials "J.M.,"
I'd object to this," I vigorously object to this," shouted Mr. Sears — who he said "was through Mr. Mitchell, Mr. Ray,
Stans's lawyer, Walter J. Bonbought and paid for by Robert hill said.

The prosecutor also said that



The New York Tim

Charles W. Colson in his Washington office yesterday